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LETTER DATED 3 MARCH 1994 FROM THE PERMANENT REPRESENTATIVES OF BOSNIA AND HERZEGOVINA AND CROATIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

Upon instructions from our Governments, we have the honour to enclose the Framework Agreement establishing a Federation in the Areas of the Republic of Bosnia and Herzegovina with a Majority Bosniac and Croat Population, and the Outline of a Preliminary Agreement for a Confederation between the Republic of Croatia and the Federation. The two documents were signed in Washington on 1 March 1994, under the auspices of the United States of America, by His Excellency Haris Silajdzic, Prime Minister of the Republic of Bosnia and Herzegovina, His Excellency Mate Granic, Deputy Prime Minister and Minister for Foreign Affairs of the Republic of Croatia, and Mr. Kresimir Zubak, head of the Bosnian Croat delegation at the International Conference on the Former Yugoslavia.

We would kindly request for your assistance in distributing this letter and its enclosure as a document of the Security Council.

(Signed) Ambassador Muhamed SACIRBEY
Permanent Representative
of the Republic of Bosnia and
Herzegovina to the United Nations

(Signed) Ambassador Mario NOBILO
Permanent Representative
of the Republic of Croatia
to the United Nations

Enclosure

The undersigned have agreed on the attached Framework Agreement establishing a Federation in the Areas of the Republic of Bosnia and Herzegovina with a Majority Bosniac and Croat Population and on the attached Outline of a Preliminary Agreement for a Confederation between the Republic of Croatia and the Federation.

They have further agreed to establish a high-level Transitional Committee, which will take immediate and concrete steps towards the establishment of the Federation and Confederation. The Committee will begin its work on 4 March 1994 in Vienna and will seek to conclude by 15 March 1994:

(1) The Constitution of the Federation;

(2) The Preliminary Agreement on the Confederation between the Republic of Croatia and the Proposed Federation;

(3) An agreement concerning military arrangements in the territory of the proposed Federation;

(4) Transitional measures to expedite the establishment of the Confederation and Federation, including where possible the creation of governmental structures as outlined in the Framework Agreement;

and any other measures determined to be necessary.

(Signed) Kresimir ZUBAK (Signed) Haris SILAJDZIC (Signed) Mate GRANIC

Attachment I

Framework agreement for the Federation

I
ESTABLISHMENT

Guided by the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the Declaration on the Rights of Persons belonging to National, Ethnic, Religious or Linguistic Minorities, the Statement of Principles by the International Conference on the Former Yugoslavia at its session in London, as well as the decisions of the United Nations Security Council relating to the former Yugoslavia; and

Based on the sovereignty and territorial integrity of the Republic of Bosnia and Herzegovina, the peoples and citizens of Bosnia and Herzegovina, determined to ensure full national equality, democratic relations, and the highest standards of human rights and freedoms, hereby create a Federation.

Bosniacs and Croats, as constituent peoples (along with others) and citizens of the Republic of Bosnia and Herzegovina, in the exercise of their sovereign rights, transform the internal structure of the territories with a majority of Bosniac and Croat population in the Republic of Bosnia and Herzegovina into a Federation, which is composed of federal units with equal rights and responsibilities.

The decisions on the constitutional status of the territories of the Republic of Bosnia and Herzegovina with a majority of Serb population shall be made in the course of negotiations toward a peaceful settlement and at the International Conference on the Former Yugoslavia.

II
DIVISION OF RESPONSIBILITIES

1. The central government to have exclusive responsibility for:

- Foreign affairs.
- National defense: including joint command; joint military arrangements within the Confederation; and protection of national borders.
- Citizenship.
- Economic policy, including planning and reconstruction.
- Commerce, including customs, international trade and finance; trade within the Federal Republic; communications.
- Finance: national currency; monetary and fiscal policy; regulation of financial institutions; joint arrangements within the Confederation.
- Combatting international crimes, inter-cantonal crimes, and others of special interest to the central government (e.g., terrorism, drug trafficking, and organized crime); and cooperating with Interpol.
- Financing of the central government (taxation, borrowing).
- Radio-television frequency allocation.
- Energy policy and infrastructure, including inter-cantonal distribution/allocation matters.

2. The central government and the cantons to have responsibility for:

- Human rights.
- Health.
- Environmental policy.
- Infrastructure for communications and transport.
- Social welfare policy.
- Citizenship, implementation of laws and regulations.
- Immigration and asylum.
- Tourism.
- Use of natural resources.

As appropriate, these responsibilities may be exercised jointly or separately, or by the cantons as coordinated by the central government.

3. The cantons shall have all responsibility not expressly granted to the central government. They shall have, in particular, authority over the following:

- Police (identical Federation uniforms, with cantonal insignia).
- Education.
- Culture.
- Housing.
- Public services.
- Local land use (zoning).
- Financing of cantonal governments (taxation, borrowing).
- Local business and charitable activities (regulation, facilitation).
- Energy production (organization of local production facilities).
- Radio and television.
- Social welfare services (provision).
- Tourist development.

III
STRUCTURE OF GOVERNMENT

I. CENTRAL GOVERNMENT

A. Executive Authority

1. The President and Vice-President:

a. The Legislature shall elect one Bosniac and one Croat, who shall serve alternate one-year terms as President and Vice-President during a four-year period.

b. The President shall be the head of state.

2. The Government:

a. The Government shall consist of a Prime Minister; a Deputy Prime Minister; and Ministers, each of whom shall have a Deputy. No Deputy (including the Deputy Prime Minister) may be from the same constituent people as his Minister.

b. The President, with the concurrence of the Vice-President, shall nominate the Government, which shall be elected by the House of Representatives. No fewer than one-third of the Ministerial positions shall be occupied by Croats.

c. The Prime Minister shall be the head of government.

3. The respective competencies of the President and of the Prime Minister and the Government shall be specified in the Constitution.

4. Decisions of the Government that concern the vital interest of any of the constituent peoples shall require consensus.

B. The Legislature

1. The Legislature shall consist of two houses:

a. The House of Representatives, which shall be elected democratically on a proportional basis in the Federation as a whole;

b. The House of Peoples, which shall have an equal number of Bosniac and Croat delegates. Each canton shall be allocated a number of seats to be occupied by Bosniac delegates and a number of seats to be occupied by Croat delegates, in proportion to these two groups in the Legislature of that canton; the Bosniac and Croat delegates from each canton are to be elected, respectively, by the Bosniac and Croat representatives in its Legislature.

2. Decisions of the Legislature require the approval of both Houses.

a. Decisions that concern the vital interest of any of the constituent peoples shall require, in the House of Peoples, the approval of a majority of the Bosniac representatives and of a majority of the Croat representatives.

b. Amendments of the Constitution shall require in the House of Peoples the vote specified in (a) above and, in the House of Representatives, a two-thirds majority.

c. Other decisions shall be taken by simple majority in each House.

C. The Judiciary

1. There shall be a Constitutional Court competent to resolve disputes among the cantons, between any of these and the Federation, between any municipality and its canton or the Federation, or between or within any of the organs of the Federation. The judges shall be nominated by the President and elected by the Legislature, and shall consist of an equal number from each of the constituent peoples; during a transitional period of five years, one-third of the judges shall be appointed by the President of the International Court of Justice from persons who are not citizens of the Federation.

2. There shall be a Human Rights Court established in accordance with Resolution 93 (6) of the Committee of Ministers of the Council of Europe, whose composition and competence shall be specified in the Constitution.

3. There shall be a Supreme Court, which shall have selective appellate jurisdiction from the courts of the cantons and such jurisdiction as specified in the Constitution and in legislation. The members of the Court shall be nominated by the President and elected by the Legislature, and shall consist of an equal number of judges from each of the constituent peoples.

II. THE CANTONAL GOVERNMENTS

Each canton shall take all necessary steps to ensure the protection of the rights and freedoms provided in the instruments listed in the Annex and shall act consistently with the Constitution of the Federation.

Each canton shall exercise its responsibilities with due regard to the population in each municipality. It may delegate appropriate powers to municipality and should do so when the municipality's majority population is a minority in the canton as a whole.

A. Executive Authority

1. President: The Cantonal President shall be elected by a uniform procedure to be specified in the Federation Constitution and reflected in the constitutions of the cantons.

2. Government: The Cantonal Government shall be nominated by the Cantonal President and approved by the Cantonal Legislature. Each Cantonal Government shall have a composition reflecting that of the population of the canton.

3. In exercising its responsibilities in respect to the cantonal police, the Cantonal Government shall ensure that the composition of the police shall reflect that of the population of the canton, provided that the composition of the police of each municipality shall reflect the composition of the latter.

B. The Legislature

Each canton shall have a Legislature, which shall be elected democratically on a proportional basis in the canton as a whole.

C. The Judiciary

Each canton shall have courts, which shall be competent to hear appeals from the courts of the municipalities, and have original jurisdiction over cases not within the competence of those courts. The judges shall be nominated by the Cantonal President and elected by the Cantonal Legislature, in such a way that the composition of the judiciary as a whole shall reflect that of the population of the canton.

III. THE MUNICIPALITY GOVERNMENTS

1. Municipalities shall exercise self-rule on local matters.

2. The Municipality Executive: Each municipality shall have an Executive elected by its Governing Council.

3. Each municipality shall have a Governing Council elected democratically on a proportional basis.

4. Each municipality shall establish courts, the jurisdiction of which shall be specified by cantonal legislation.

IV
COUNCILS OF CANTONS

Cantons with a Bosniac-majority or a Croat-majority population may establish Councils of Cantons in order to coordinate policies and activities on matters of common interest to their communities and to advise their representatives in the House of Peoples.

V
HUMAN RIGHTS

The principles set forth below, as well as the rights and freedoms provided in the instruments listed in the Annex, shall be applied throughout the territory of the Republic of Bosnia and Herzegovina.

In the Federation:

1. All persons within the territory of the Federation shall be entitled to the highest level of internationally recognized rights and freedoms provided in the instruments listed in the Annex.

2. All refugees and displaced persons have the right to freely return to their homes of origin.

3. All persons shall have the right to have restored to them any property of which they were deprived in the course of ethnic cleansing and to be compensated for any property which cannot be restored to them. All statements or commitments made under duress, particularly those relating to the relinquishment of rights to land or property, shall be treated as null and void.

4. All courts, administrative agencies and other governmental organs of the Federation shall apply and conform to the rights and freedoms provided in the instruments listed in the Annex. A Court of Human Rights shall be established; its composition and competence shall be set out in the Constitution.

5. The Federation shall cooperate with any international human rights monitoring mechanisms established for Bosnia and Herzegovina and with the supervisory bodies established by any of the instruments listed in the Annex.

6. To assist in implementing the rights and freedoms specified in the Constitution, an Ombudsman shall be appointed by the CSCE from each recognized group: Bosniacs, Croats, and others. Each Ombudsman shall have offices throughout the Federation as he deems appropriate and shall have the responsibility to investigate fully matters concerning security, rights, and freedoms and to report to competent government agencies, including the Prime Minister of the Federation, and to the CSCE.

VI
MILITARY ARRANGEMENTS

Both sides agree to the establishment of a unified military command of the military of the Federation.

The sides will develop comprehensive transitional arrangements to that end in the context of a military agreement. In the transitional period:

- current command structures will remain in place;

- forces of the sides will disengage from one another immediately, with the aim of withdrawing a safe distance to be specified in the military agreement; and

- all foreign armed forces, except those present with the agreement of the Republic of Bosnia and Herzegovina or the authorization of the U.N. Security Council, will leave the territory of the Federation.

VII
APPROVAL OF THE CONSTITUTION

The Constitution of the Federation will be promulgated by a Constituent Assembly, which shall consist of those representatives elected at the 1990 elections to the Assembly of the Republic of Bosnia and Herzegovina whose mandate is still valid. Approval of the Constitution shall require consensus between the delegation of the Croat people, comprising all representatives of Croat nationality, and the delegation of the Bosniac people, comprising all representatives of Bosniac nationality.

VIII
ARRANGEMENT
DURING THE TRANSITIONAL PERIOD

The two parties agree to establish a high level Committee which will prepare a draft Constitution of the Federation and coordinate other matters related to the implementation of the Framework Agreement. The Committee will start its work in Vienna on March 4, 1994.

Until the Constitution of the Federation enters into force, the present administrative arrangements will continue in effect everywhere in the Republic of Bosnia and Herzegovina, unless the Committee decides otherwise by consensus and except in the Mostar City Municipality, which the two sides agree will be governed by an EU Administrator for up to two years.

ANNEX

HUMAN RIGHTS INSTRUMENTS INCORPORATED INTO THE CONSTITUTIONAL AGREEMENT

A. General Human Rights, especially Civil and Political Rights

1. 1948 Convention on the Prevention and Punishment of the Crime of Genocide

2. 1948 Universal Declaration of Human Rights, Articles 1-21

3. 1949 Geneva Conventions I-IV on the Laws of War, and the 1977 Geneva Protocols I-II thereto

4. 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and Protocols 1-10 thereto

5. 1951 Convention relating to the Status of Refugees and the 1966 Protocol thereto

6. 1965 International Convention on the Elimination of All Forms of Racial Discrimination

7. 1966 International Covenant on Civil and Political Rights and its 1966 and 1989 Optional Protocols thereto

8. 1979 International Convention on the Elimination of All Forms of Discrimination against Women

9. 1981 (UN) Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief

10. 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

11. 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

12. 1989 Convention on the Rights of the Child

B. Protection of Groups and Minorities

13. 1990 Council of Europe Parliamentary Assembly Recommendation on the Rights of Minorities, paras. 10-13

14. 1992 (UN) Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

C. Economic, Social and Cultural Rights

15. 1948 Universal Declaration of Human Rights, Articles 22-27

16. 1961 European Social Charter and the Protocol 1 thereto

17. 1966 International Covenant on Economic, Social and Cultural Rights

D. Citizenship and Nationality

18. 1957 Convention on the Nationality of Married Women

19. 1961 Convention on the Reduction of Statelessness

Attachment II

OUTLINE OF A PRELIMINARY AGREEMENT ON THE PRINCIPLES AND FOUNDATIONS FOR THE ESTABLISHMENT OF A CONFEDERATION BETWEEN THE REPUBLIC OF CROATIA AND THE FEDERATION

It is anticipated that a Confederation will be established by the Republic of Croatia (hereinafter "Croatia") and the Federation of Bosnia and Herzegovina (hereinafter the "Federation").

The steps toward establishing the Confederation shall be:

(1) A preliminary agreement, to be concluded as soon as possible; and

(2) A final agreement, to be concluded between Croatia and the Federation as soon as the latter is established.

I

The establishment of the Confederation shall not change the international identity or legal personality of Croatia or of the Federation.

II

The Confederation shall, through the enactment of regulations and otherwise:

(1) Establish a common market providing for the free movement of goods, services, and capital; and

(2) Facilitate cooperation and the development of common policies in the following areas:

(i) transport;
(ii) energy;
(iii) the environment;
(iv) economic policy, including laws and regulations governing the development of free markets, finance, and customs;
(v) the reconstruction of the economy;
(vi) health care;
(vii) culture, science, and education;
(viii) product standardization and consumer protection;
(ix) migration, immigration, and asylum;
(x) law enforcement, particularly with regard to terrorism, smuggling, drug abuse, and organized crime.

III

Croatia and the Federation shall as soon as possible enact internal regulations and conclude agreements under the auspices of the Confederation necessary to establish:

(1) A customs union;

(2) A monetary union; and

(3) Defense arrangements, including the coordination of defense policies and the establishment of joint command staffs in the event of war or imminent peril to either Party.

IV

The Parties shall conclude as soon as possible agreements granting the Federation unrestricted access to the Adriatic through Croatia and granting Croatia unrestricted transit through Neum, as specified in the attached Annex.

V

In order to coordinate their policies and activities as provided in this Agreement, the Parties shall constitute a Confederative Council, in which each Party shall have an equal number of members. Conclusions of the Council shall require the approval of a majority of the members from each Party.

The President of the Confederative Council shall be elected by the Council for a term of one year, alternately from among the members of each Party.

Annex I

AGREEMENT BETWEEN THE REPUBLIC OF CROATIA
AND THE FEDERATION
GRANTING THE FEDERATION ACCESS TO THE ADRIATIC THROUGH THE TERRITORY OF THE REPUBLIC OF CROATIA

The Republic of Croatia
and
The Federation

Considering that it is desirable that Federation (hereinafter the "Federation") have assured and unrestricted access to the Adriatic Sea on the surface and in the air through and over the territory of the Republic of Croatia (hereinafter "Croatia"),

HEREBY AGREE AS FOLLOWS:

Article 1

(a) Croatia shall lease to the Federation for the duration of this Agreement the plot of land within the Port of Ploce, including the docks and the parts of the harbour pertaining thereto described in the Annex hereto (hereinafter referred to as the "Leased Area").

(b) Croatia agrees that the Leased Area shall enjoy the status of a free zone, in which no duties or taxes imposed by Croatia shall apply.

Article 2

(a) Croatia shall allow access to and from the Leased Area:

(i) By ships from the Adriatic Sea, through the territorial waters of Croatia, subject to such ships complying with any applicable international regulations:

/...

(ii) By ships or barges up the Neretva River up to the point where that River enters the territory of the Federation;

(iii) By railroad on the line between Ploce to Sarajevo up to the point where that railroad line enters the territory of the Federation;

(iv) By road between Ploce to Sarajevo up to the point where that road enters the territory of the Federation.

(b) Ships, barges, railroad cars, and trucks and other road vehicles using the routes referred to in paragraph (a) that are marked by an emblem of the Federation shall not be entered or inspected by any public authority of Croatia.

(c) Limits on the sizes and specifications of the characteristics of the ships, barges, railroad cars, and trucks and other road vehicles referred to in paragraph (b) and of the volume of traffic on the routes referred to in paragraph (a) may be set by the Joint Commission established in accordance with Article 4.

(d) Should the limits set in accordance with paragraph (c) restrict the volume of traffic that the Federation considers it necessary to maintain, then it may, at its cost and in accordance with plans approved by the Joint Commission, arrange for the capacity of the routes referred to in paragraph (a) to be increased.

(e) With respect to any traffic of persons or goods carried out pursuant to this Article, all responsibilities for compliance with international laws and obligations shall be assumed by the Federation.

Article 3

Croatia grants to the Federation the right to authorize any types of aircraft to overfly the territory of Croatia, including its territorial waters, subject to such aircraft complying with any applicable international air traffic regulations.

Article 4

(a) The Parties hereby establish a Joint Commission to assist in implementing the present Agreement by:

(i) establishing any rules and standards required for implementing the Agreement, and in particular Article 2 (c), including for any construction;

(ii) arrange for any monitoring required to prevent abuses of the Agreement;

(iii) settle, subject to Article 6, any disputes regarding the interpretation or the application of the Agreement.

(b) Croatia and the Federation shall appoint three members each to the Joint Commission and they shall by joint agreement appoint three more members, one of whom shall be the Chairman. If no agreement can be reached on one or more of the joint appointments within three months, the Secretary-General of the United Nations shall make those appointments at the request of either party.

(c) The Joint Commission shall adopt its own rules of procedure. Its decisions shall require five concurring votes.

Article 5

The present Agreement may be supplemented by others designed to implement the 1965 Convention on the Transit Trade of Land-Locked States.

Article 6

Unless otherwise agreed, any legal dispute concerning the interpretation of this Agreement may be submitted by either Party for a binding decision to the arbitral tribunal to which both Parties shall appoint one member each, with the Chairman appointed jointly; should any of the required appointments not be made within three months, they may be made by the President of the International Court of Justice at the request of either party.

Article 7

This Agreement shall remain in force for a period of 99 years, except as otherwise agreed by the Parties.

DONE this _____ day of _____ 1994, in _____, in three copies, each in English, Croatian and Bosnian languages, which shall be equally authentic.

Annex II

AGREEMENT BETWEEN THE FEDERATION AND THE REPUBLIC OF CROATIA GRANTING CROATIA TRANSIT THROUGH THE TERRITORY OF THE FEDERATION

The Federation

and

The Republic of Croatia

Considering that it is desirable that the Republic of Croatia (hereinafter "Croatia") have assured and unrestricted transit through the Municipality of Neum of the Federation,

HEREBY AGREE AS FOLLOWS:

Article 1

The Federation shall allow Croatia unrestricted transit by road through Neum between the eastern and western borders of Neum with Croatia.

Article 2

(a) Trucks and other road vehicles using the road referred to in Article 1 that are marked by the emblem of Croatia shall not be entered or inspected by any public authority of the Federation.

(b) Limits on the sizes and specifications of the trucks and other road vehicles referred to in paragraph (a) and of the volume of traffic on the road referred to in Article 1 may be set by the Joint Commission established in accordance with Article 3.

(c) Should the limits set in accordance with paragraph (b) restrict the volume of traffic that Croatia considers it necessary to maintain, then it may, at its costs and in accordance with plans approved by the Joint Commission, arrange for the capacity of the road referred to in Article 1 to be increased.

(d) With respect to any traffic of persons or goods carried out pursuant to Article 1 and 2, all responsibilities for compliance with international laws and obligations shall be assumed by Croatia.

Article 3

(a) The Parties hereby establish a Joint Commission to assist in implementing the present Agreement by:

(i) establishing any rules and standards required for implementing the Agreement, and in particular Article 2(b), including for any construction;

(ii) arrange for any monitoring required to prevent abuses of the Agreement;

(iii) settle, subject to Article 4, any disputes regarding the interpretation or the application of the Agreement.

(b) The Federation and Croatia shall appoint three members each to the Joint Commission and they shall by joint agreement appoint three more members, one of whom shall be Chairman. If no agreement can be reached on one or more of the joint appointments within three months, the Secretary-General of the United Nations shall make those appointments at the request of either Party.

(c) The Joint Commission shall adopt its own rules of procedure. Its decisions shall require five concurring votes.

Article 4

Unless otherwise agreed, any legal dispute concerning the interpretation of this Agreement may be submitted by either Party for a binding decision to an arbitral tribunal to which both Parties shall appoint one member each, with the Chairman appointed jointly; should any of the required appointments not be made within three months, they may be made by the President of the International Court of Justice at the request of either party.

Article 5

This Agreement shall remain in force for a period of 99 years, except as otherwise agreed by the Parties.

DONE this _____ day of _____ 1994, in three copies, each in the English, Croatian and Bosnian languages, which shall be equally authentic.